

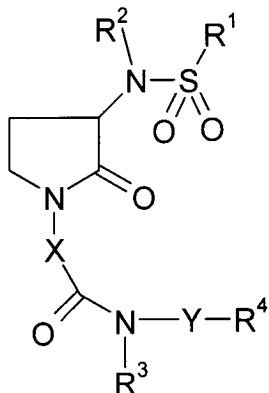
### Remarks

Claims 9-16 remain pending in the present application.

#### **I. Obviousness-type double patenting rejections**

a) Claims 9-16 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 7,329,685 ('685). The Office Action stated that conflicting claims 1-6 (of the '685 patent) overlap with applicant's claimed invention.

Applicants submit there is no overlap between the present claims and the '685 patent because in the present claims: X is substituted by the group: "-C(=O)-N(R<sup>3</sup>)-Y-R<sup>4</sup>", as shown in the formula:



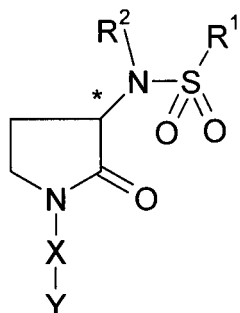
wherein

Y is absent or represents -C<sub>1-3</sub> alkylene-;

R<sup>3</sup> represents hydrogen or -C<sub>1-6</sub>alkyl;

R<sup>4</sup> represents -C<sub>3-4</sub>alkenyl, -CH<sub>2</sub>CH<sub>2</sub>OH, -CH<sub>2</sub>CO<sub>2</sub>H, -CH<sub>2</sub>CH<sub>2</sub>OC<sub>1-3</sub>alkyl, -CH<sub>2</sub>CH<sub>2</sub>SO<sub>2</sub>C<sub>1-3</sub>alkyl, -CH<sub>2</sub>CH<sub>2</sub>NR<sup>c</sup>R<sup>d</sup>, -CH<sub>2</sub>CONR<sup>c</sup>R<sup>d</sup>, phenyl or a 5- or 6- membered aromatic or non-aromatic heterocyclic group containing at least one heteroatom selected from O, N or S and optionally substituted by -C<sub>1-4</sub>alkyl.

However, in contrast to the present claims, the '685 patent claims the formula:



wherein Y represents a substituent selected from hydrogen, halogen,  $-C_{1-4}alkyl$ ,  $-C_{2-4}alkenyl$ ,  $-NR^aR^b$ ,  $-NO_2$ ,  $-C(O)NR^aR^b$ ,  $-N(C_{1-4}alkyl)(CHO)$ ,  $-NHCOC_{1-4}alkyl$ ,  $-NHSO_2R^d$ ,  $-C_{0-4}alkylOR^e$ ,  $-C(O)R^d$ ,  $-S(O)_nR^d$ , or  $-S(O)_2NR^aR^b$ ; and

$R^a$  and  $R^b$  independently represent hydrogen,  $-C_{1-6}alkyl$ , or together with the N atom to which they are bonded form a 5-, 6- or 7- membered non-aromatic heterocyclic ring optionally

containing an additional heteroatom selected from O, N or S, optionally substituted by  $-C_{1-4}alkyl$ , and optionally the S heteroatom is substituted by O i.e. represents  $S(O)_n$ ;

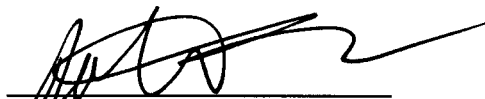
Therefore,  $R^a$  and  $R^b$  of the '685 patent cannot form " $-Y-R^4$ " as defined in by the present claims 9-16.

Applicants respectfully submit that pending claims 9-16 are patentably distinct from claims 1-6 of the '685 patent; and therefore, request favorable reconsideration of this double patenting rejection.

**b)** Claims 9-16 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Application No. 10/499,529 ('529). The Office Action stated that conflicting claims 1-6 are not patentably distinct from applicant's claimed invention. Applicant's submit that the '529 application was abandoned as of January 3, 2008. In addition, Applicants are filing concurrently with the present response a Request for Express Abandonment of the '529 application. Applicants respectfully submit that the double patenting rejection over the '529 application has now been mooted and request favorable reconsideration.

Applicants believe the present claims are in condition for allowance and such action is respectfully requested. If the Examiner has any outstanding issues with the pending claims, he is encouraged to telephone the undersigned at (919) 483-8406 for expeditious handling.

Respectfully submitted,



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